

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
(Newark Vicinage)**

ESTATE OF JEAN E. SCHMIDT, by the
Executors of the ESTATE, RICHARD S. HONG
AND DAWN FREEBERG ESPINDOLA; AND
RICHARD S. HONG and DAWN FREEBERG
ESPINDOLA, individually,

Plaintiff,

v.

Civil Action No.:

MICHAEL A. TESSEL; DATA TRUCKING,
INC.; JOHN DOE(S) (1-5); JOHN DOE INC.(S)
(1-5); and XYZ CORPORATION(S) (1-5);
RICHARD ROE(S) (1-5); RICHARD ROE
INC.(S) (1-5); and EFG CORPORATION(S) (1-5);
JANE DOE(S) (1-5); JANE DOE INC.(S) (1-5);
and ABC CORPORATION(S) (1-5), (fictitious
names),

Defendants.

NOTICE OF PETITION FOR REMOVAL FROM STATE COURT TO FEDERAL COURT

TO:

Robert B. Linder, Esquire
Law Office of Robert B. Linder, Esquire
2 North Dean Street – Suite 206
Englewood, NJ 07631
rbl.njesq@gmail.com
Attorneys for Plaintiff(s) – Estate of Jean E. Schmidt, et al.

PLEASE TAKE NOTICE that the defendants, Michael A. Tessel and/or Data Trucking, Inc.
(hereinafter referred to collectively as “Defendants” or “Data Trucking”), herein files and submits this
Notice of Removal from State Court to Federal Court in the above matter.

The Notice of Petition for Removal is also being filed with the Superior Court of New Jersey –
Law Division – Bergen County, pursuant to 28 U.S.C. §1446 (d).

A motion to remove the case from New Jersey State Court to Federal Court will be filed after the Federal Court assigns this matter a Civil Action Number.

CIPRIANI & WERNER, P.C.



MARC R. JONES, ESQUIRE (NJ#016022001)
Attorneys for Defendants – Michael A. Tessel and/or Data
Trucking, Inc.
155 Gaither Drive – Suite B
Mount Laurel, NJ 08054
856-761-3800
mjones@c-wlaw.com

DATED: October 15, 2020

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
(Newark Vicinage)**

ESTATE OF JEAN E. SCHMIDT, by the
Executors of the ESTATE, RICHARD S. HONG
AND DAWN FREEBERG ESPINDOLA; AND
RICHARD S. HONG and DAWN FREEBERG
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Civil Action No.:

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INC.; JOHN DOE(S) (1-5); JOHN DOE INC.(S)
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RICHARD ROE(S) (1-5); RICHARD ROE
INC.(S) (1-5); and EFG CORPORATION(S) (1-5);
JANE DOE(S) (1-5); JANE DOE INC.(S) (1-5);
and ABC CORPORATION(S) (1-5), (fictitious
names),

Defendants.

NOTICE OF REMOVAL FROM STATE COURT TO FEDERAL COURT

Petitioners/Defendants, Michael A. Tessel and/or Data Trucking, Inc. (hereinafter referred to collectively as “Defendants” or “Data Trucking”), hereby files the within Notice of Removal to the United States District Court of New Jersey from the Superior Court of New Jersey, Law Division – Bergen County, and hereby says:

1. This case arises out of a pedestrian/motor vehicle fatal accident that occurred on October 3, 2018 on Bridge Plaza North near the intersection with Lemoine Ave, Fort Lee, Bergen County, New Jersey. (**Exhibit “A”**)

2. On or about September 17, 2020, Plaintiff(s), Estate of Jean E. Schmidt by the Executors of the Estate Richard S. Hong and Dawn Freeberg Espindola, filed a Complaint against the Defendants’, Michael A. Tessel and/or Data Trucking, Inc., in the Superior Court of New Jersey, Law Division – Bergen County, entitled Estate of Jean E. Schmidt, et al. v. Michael A. Tessel, et al., under docket number BER-L-5442-20. (**Exhibit “B”**)

3. Service of the Complaint was made upon defendant, Michael A. Tessel/Data Trucking, Inc., at his home address of 176 Pineview Ave, Bardonia, New York via personal service on September 28, 2020. (**Exhibit “C”**)

4. Plaintiff alleges damages for, *inter alia*, negligence, wrongful death, survivorship, conscious pain and suffering including, but not limited to “...serious personal injuries resulting in death...” and Plaintiff(s) are demanding \$5,000,000.00 in damages. (**Exhibits “B,” and “D”**).

5. Plaintiff(s), Estate of Jean E. Schmidt by the Executors of the Estate, Richard S. Hong and Dawn Freeberg Espindola, are citizen(s) of the State of New Jersey as the Estate was formed in Bergen County, New Jersey; Ms. Schmidt was domiciled at 1500 Palisade Ave – Apt. 24E, Fort Lee, Bergen County, New Jersey; Richard S. Hong is a citizen of the State of New Jersey who resides at 447 4th Street – Floor 1, Palisades Park, Bergen County, New Jersey; and Dawn Freeberg Espindola is a citizen of the State of Minnesota and is domiciled at 18415 Melissa Circle, Eden Prairie, Hennepin County, Minnesota. (**Exhibits “A” and “B”**)

6. Defendant, Michael A. Tessel, is a natural person who is a citizen of the State of New York and is domiciled at 176 Pineview Ave, Bardonia, New York. (**Exhibits “A,” and “C”**)

7. Defendant, Data Trucking, Inc., is a corporation existing and organized under the laws of the State of New York and that is domiciled and principally located at 176 Pineview Ave, Bardonia, New York. (**Exhibits “A,” and “C”**)

8. The present case, therefore, is a civil action in which the United States District Court for the District Court of New Jersey has original jurisdiction by virtue of diversity of citizenship of all of the parties pursuant to 28 U.S.C. §1332.

9. Pursuant to 28 U.S.C. §1332, this case involves injuries which, as alleged by Plaintiffs, will exceed \$75,000.00 exclusive of interest and costs as evidenced by the Complaint. (**Exhibit “D”**)

10. In accordance with the applicable Federal Rules of Civil Procedure and/or Federal Statutes, specifically 28 U.S.C.S. §1446 (b), this Notice of Removal has been filed within (30) days after

the Petitioners/Defendants received notice of Plaintiff's Complaint. See Granovsky v. Pfizer, Inc., et al., 631 F.Supp.2d 554, 559 (D.N.J. 2009).

11. Accordingly, pursuant to 28 U.S.C. §1332, this matter is a civil action that may be removed by the Petitioners from State Court to the United States District Court for the District of New Jersey over which the federal court has original jurisdiction.

12. A copy of the Defendants' answer to the Complaint is attached hereto as **Exhibit "E"** and will be filed separately.

WHEREFORE, Petitioners/Defendants, Michael A. Tessel and/or Data Trucking, Inc., hereby respectfully requests that the aforementioned civil action commenced against them by Plaintiff be removed to the United States District Court for the District Court of New Jersey for all further proceedings.

Respectfully submitted,

CIPRIANI & WERNER, P.C.



MARC R. JONES, ESQUIRE (NJ#016022001)
Attorneys for Defendants – Michael A. Tessel and/or Data
Trucking, Inc.
155 Gaither Drive – Suite B
Mount Laurel, NJ 08054
856-761-3800
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DATED: October 15, 2020